

Minimum Standard Health Protocol Plan (COVID-19), Cedar Park Judiciary

Recognizing the need to ensure the health and safety of litigants, attorneys, visitors, court staff, judges, and other individuals entering the buildings housing the court, the court of the Presiding Judge of the Cedar Park Municipal Court will implement the following minimum standard health protocols required for court proceedings in the Cedar Park Municipal Court.

All Judges and court staff will comply with the Emergency Orders issued by the Supreme Court of Texas including conducting in-person proceedings according to the required guidance issued by the Office of Court Administration regarding social distancing, maximum group size, and other restrictions and precautions.

Face Coverings

1. All individuals entering the court building will be required to wear face coverings at all times.
2. Individuals will be encouraged to bring cloth face coverings with them, but if the individual does not have a cloth face covering, a disposable face mask will be provided.

Judge and Court Staff Health

1. Judge and Court Staff Monitoring Requirements: Judges and Court staff will have their temperatures taken and will be required to answer whether they are experiencing the symptoms listed in 1a prior to entry into the facility each day.
 - a. Judges or court staff who feel feverish or have measured temperatures equal to or greater than 100.4°F, or with new or worsening signs or symptoms of COVID-19 such as cough, shortness of breath or difficulty breathing, chills, repeated shaking with chills, muscle pain, headache, sore throat, loss of taste or smell, diarrhea, or having known close contact with a person who is confirmed to have COVID-19 will not be permitted to enter the building and should seek medical advice.
2. Judges and court staff will be required to wear face coverings, practice social distancing, and practice appropriate hygiene recommendations at all times. The only exceptions for face coverings are when employees are alone in a private office or seated at a workstation, or when conducting court and protected by plexiglass.
3. Other Protective Measures:
 - a. Wipe stations at each door, and hand sanitizer provided at each workstation.
 - b. Signage reminding staff to follow CDC guidelines will be posted in staff working areas, the courtroom, restrooms, and breakroom facilities.
 - c. Restroom modifications will include touchless faucets and paper towel dispensers. Additionally, restrooms with push bars will have arm-pulls and foot-pulls added, and restrooms with handles, will include a hand-wipe station at each door.
 - d. Breakrooms will be modified to allow only 2 people at any given time, and community appliances such as microwaves, refrigerators, sinks, touch faucets, and coffee makers, will be properly wiped down after each use. A wipe-station will be placed at the door to the breakroom.



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- e. Court staff will be required to wear gloves when handling physical documentation or cash transactions.
- f. Protective flaps have been added to the clerk counter 'pass-through' slots to reduce the transmission of germs.
- g. Only alternate clerk's windows will be open at any given time, to ensure proper distancing.
- h. Office supplies have been moved from closed-door cabinets to open shelving to reduce touch points when accessing those supplies.
- i. Badge swipes (not number key codes) must be used when using secured doors.
- j. Electronic document submission by defendants will be facilitated and encouraged both at the clerk's counter and in the courtroom, to minimize transfer of physical documentation from person to person.
- k. Document transfer between court staff and Judges will be done electronically whenever possible.

Vulnerable Populations

- 1. Individuals who are over age 65 and individuals with serious underlying health conditions, such as high blood pressure, chronic lung disease, diabetes, obesity, asthma, and those whose immune systems are compromised such as by chemotherapy for cancer or other conditions requiring such therapy are considered to be vulnerable populations.
- 2. Each Judge will include information on orders setting hearings, dockets notices, and in other communications notifying individuals who are in vulnerable populations of the ability to contact the court to *identify themselves* as a vulnerable individual and receive accommodations. A notice with this information will be posted on the courts' websites and in conspicuous locations around the court building. Vulnerable populations who are scheduled for court will be accommodated by:
 - a. If a court hearing becomes required, it will be scheduled remotely or telephonically whenever possible. If the hearing must be held in person, the policies regarding social distancing, and the use of PPE's detailed in this policy will be strictly enforced.

Social Distancing

- 1. All persons not from the same household who are permitted in the court building will be required to maintain adequate social distancing of at least 6 feet.
- 2. Each restroom has been evaluated to determine the appropriate capacity to ensure social distancing and the maximum capacity has been posted on each restroom door.
- 3. Public common areas, including breakrooms and snackrooms, have been closed to the public.

Hygiene

- 1. Hand sanitizer dispensers have been placed at the entrances to the building, outside of the courtroom, and outside of bathrooms.
- 2. Tissues have been placed near the door of the courtroom, at counsel tables, at the witness stand, on the Judges' benches, in the pretrial conference/jury area, and in the hallways.
- 3. The Department of State Health Service's "Stop the Spread of Germs Flyer" has been posted in multiple locations throughout the court building.



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Screening

1. Signage will be prominently displayed at the entrance to the courthouse, indicating that if individuals are feeling feverish; have a cough, shortness of breath, or difficulty breathing; or have been in close contact with a person who is confirmed to have COVID-19. Individuals they must immediately exit the building and contact the court by phone or email.
2. When individuals enter the courtroom, the Municipal Court Bailiff will use an infrared thermometer to determine the temperature of the individual. Individuals whose temperature equals or exceeds 100.4 °F will be refused admittance to the courtroom.
3. Inmates being transported from the jail to the court building will be screened for symptoms of COVID-19 and have their temperature taken prior to transport. Inmates with symptoms or a temperature equal to or above 100.4°F will not be transported to the court building.
4. Staff who are screening individuals entering the courtroom will be provided personal protective equipment, including gloves, masks, hand sanitizer, and disinfectant spray or wipes.

Cleaning

1. Court staff will clean all common area surfaces, including door handles and push bars, and workstation and lobby countertops every 3 hours.
2. Court staff will clean the courtroom, including properly sanitizing court benches and seating areas if there are multiple court sessions per day, when courtroom is in use.
3. Court building cleaning staff will thoroughly clean and sanitize the entire court facility including the courtroom and restrooms at the conclusion of each day.
4. Court building cleaning staff have been provided cleaning supplies shown to be effective with this coronavirus, are trained on proper cleaning techniques, and are provided appropriate personal protective equipment.

Court Proceedings

This Court will continue to use all reasonable efforts to conduct proceedings remotely. Expanded telephone and written request options will be provided to defendants in handling their cases to minimize the need for an in-person appearance. The following criteria will be used to determine when an in-person proceeding is necessary and when all reasonable efforts do not permit the proceeding to be conducted remotely:

1. The judge shall inform each counsel and pro se litigant that the hearing shall be conducted remotely over Zoom. The judge shall provide each counsel and pro se litigant a phone number or email address to inform the judge if they believe any counsel, their clients, a pro se litigant, any witness, an interpreter, or any other participant (all referred to below as "Participant") cannot participate remotely. The judge or judge's staff shall then determine whether a Participant is unable to participate in the hearing due to any one or more of the following:
 - a. lack of technology which precludes or impedes their ability to participate in the hearing via the Zoom videoconferencing app. Examples of the lack of such technology include:
 - i. lack of access to a computer tablet or other device with internet video capability;
 - ii. lack of access to a cell phone; or
 - iii. lack of access to an internet connection.



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- b. A physical, mental, or other disability that prevents a Participant from being able to effectively operate or utilize the required technology. Examples of such a disability include:
 - i. a physical or mental disability that precludes them from effectively operating the technology necessary to access the Zoom videoconferencing app;
 - ii. a physical disability that precludes them from effectively seeing, hearing, or otherwise participating in a Zoom video hearing;
 - iii. the lack of or unavailability of an interpreter who can assist the individual in communicating during a Zoom hearing;
 - iv. incarceration and the incarcerating facility's lack of technological resources or facilities to allow the inmate to participate remotely in the hearing or confer privately with the inmate's legal counsel; or
 - c. A confrontation clause constitutional objection is raised by criminal defense counsel or a pro se litigant, and the judge sustains the objection after conducting a *Haggard*¹ analysis.
 - d. A proceeding where one Participant needs to appear in person due to a need to provide fingerprints, is subject to incarceration, or must meet with multiple departments as a result of the court proceeding, in which case that party may need to appear while the other parties appear remotely.
2. If an individual is unable to participate for one of these reasons, prior to holding an in-person hearing, the judge shall make reasonable efforts to accommodate the individual as set forth in the procedure below.

When an individual is found to be unable to participate in a Zoom videoconference for one of the reasons stated above, prior to holding an in-person hearing, the judge considering the in-person hearing shall make all reasonable efforts to make accommodations that will allow the individual(s) to participate. The accommodations that the judges of the Municipal Court shall consider include:

1. When an individual does not have adequate technological resources on their own to participate in a Zoom videoconferencing hearing, a judge shall:
 - a. determine whether the court has the ability to provide the individual with a laptop or other device which would allow the individual to participate in the hearing from some segregated location within the court facility while following appropriate COVID-19 precautions and protocols;
 - b. determine if such technological resources can be provided to the individual by some other source (e.g. a participating attorney, a party, a family member, friend, public library, or an appropriate agency of the State of Texas); and
 - c. determine whether the individual could participate in a meaningful manner by telephone (audio only).
2. When an individual has physical or mental disabilities that would prevent the individual from operating the technology required, a judge shall:
 - a. determine if the individual has legal counsel, family or friends who can assist in operating the required technology; and
 - b. inquire as to what, if any, accommodations could be made which would allow the individual with a disability to participate.
3. When an individual is incarcerated, a judge shall:
 - a. determine whether the facility has the technological resources or facilities to allow the incarcerated individual to participate in the hearing;

¹ [Haggard v. State](#), 2020 WL 7233672 (Tex. Crim. App. 2020)



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- b. if the facility does not have the technological resources to allow the inmate to participate in a Zoom videoconference, determine whether the inmate could participate in a meaningful manner by telephone (audio only).
4. When an individual is otherwise unable to participate in a hearing via videoconference or by audio only, a judge shall determine whether the individual can effectively participate in the proceeding by a sworn statement made out of court as permitted by the Emergency Orders of the Supreme Court of Texas.
5. If no accommodation is available, the judge shall determine if a continuance is warranted, balancing the risk to public health and safety with the need to resolve the particular case.

If no accommodation is available and the judge determines a continuance is not warranted, the judge may permit the hearing to occur in-person under the precautions and protocols in accordance with the minimum health standard protocols outlined herein.

Courtroom Capacity

Court staff will ensure that a minimum of 6 feet of social distancing separates all courtroom participants who are not from the same household. No additional participants will be allowed in the courtroom once the social distancing capacity has been reached. To comply with open court requirements, court sessions may be live-streamed for public access to ensure meaningful access to court proceedings.

In each courtroom, the counsel tables, witness stand, Judge's bench, clerk, bailiff, and juror seating have been arranged in such a way so that there is social distancing of at least 6 feet between each space, or the plexiglass dividers are in place.

Jury Trials

Jury trials will be held in-person when possible. Jurors will be required to wear a face covering at all times they are in the court facility, and will be provided a space for deliberation in which social distancing can be maintained at all times.

- **In order to conduct an in-person jury proceeding the Court will:**
 - Ensure prior approval, or a prior approved schedule, for the jury proceeding from the presiding judge of the municipal court;
 - Consider on the record, (or in open court, or by making a docket entry in the case file) any objection or motion related to continuing with the jury proceeding at least seven days before the jury proceeding or as soon as practicable if the objection or motion is made or filed within seven days of the jury proceeding;
 - Establish communication protocols to ensure that no court participants have tested positive for COVID-19 within the previous 10 days, have had symptoms of COVID-19 within the previous 10 days, or have had recent known exposure to COVID-19 within the previous 14 days;
 - Include with the jury summons information on the precautions that have been taken to protect the health and safety of prospective jurors and a COVID-19 questionnaire to be submitted in advance of the jury selection that elicits from prospective jurors information about their exposure or particular vulnerability to COVID-19; and
 - upon request by a prospective juror, excuse or reschedule any prospective juror who provides information confirming their COVID-19 infection or exposure or their particular vulnerability to COVID-19.



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If a jury trial must be conducted remotely, the Court will consider on the record, (or in open court, or by making a docket entry in the case file) any objections or motion relating to the remote proceeding at least seven days before the proceeding, or as soon as practicable if the objection or motion is made within seven days of the jury trial. The Court will ensure that each juror has the necessary technology to participate remotely.

These Minimum Standard Health Protocols are intended to comply with the Texas Supreme Court's Emergency Order and guidance from the Office of Court Administration. In any instance where these protocols conflict with the Texas Supreme Court or Office of Court Administration, the Texas Supreme Court Orders and OCA Guidance prevails.

I will periodically review this Health Protocol Plan and institute changes based on relevant COVID-19 data, as well as recommendations and mandates of the Supreme Court of the State of Texas and the Office of Court Administration.

Sincerely,

March 24, 2021

Date

Joseph Oswald
Presiding Municipal Judge
City of Cedar Park Municipal Court